

## § 1201.137

behalf the stay was ordered. 5 U.S.C. 1214(b)(1)(D).

(e) *Additional information.* At any time, where appropriate, the Special Counsel, the agency, or both may be required to appear and present further information or explanation regarding a request for a stay, to file supplemental briefs or memoranda, or to supply factual information needed to make a decision regarding a stay.

[62 FR 48451, Sept. 16, 1997, as amended at 63 FR 42686, Aug. 11, 1998]

### ACTIONS AGAINST ADMINISTRATIVE LAW JUDGES

## § 1201.137 Covered actions; filing complaint; serving documents on parties.

(a) *Covered actions.* The jurisdiction of the Board under 5 U.S.C. 7521 and this subpart with respect to actions against administrative law judges is limited to proposals by an agency to take any of the following actions against an administrative law judge:

- (1) Removal;
- (2) Suspension;
- (3) Reduction in grade;
- (4) Reduction in pay; and
- (5) Furlough of 30 days or less.

(b) *Place of filing.* To initiate an action against an administrative law judge under this subpart, an agency must file a complaint with the Clerk of the Board.

(c) *Initial filing and service.* The agency must file a copy of the complaint, together with numbered and tabbed exhibits or attachments, if any, and a certificate of service listing each party or the party's representative. The certificate of service must show the last known address, telephone number, and facsimile number of each party or representative. The agency must serve a copy of the complaint on each party and the party's representative, as shown on the certificate of service.

(d) *Subsequent filings and service.* Each party must serve on every other party or the party's representative one copy of each of its pleadings, as defined by § 1201.4(b). A certificate of service describing how and when service was made must accompany each pleading. Each party is responsible for notifying the Board and the other parties in

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writing of any change in name, address, telephone number, or facsimile number of the party or the party's representative.

[62 FR 48451, Sept. 16, 1997, as amended at 68 FR 59863, Oct. 20, 2003; 69 FR 57630, Sept. 27, 2004; 73 FR 10130, Feb. 26, 2008; 77 FR 62370, Oct. 12, 2012]

## § 1201.138 Contents of complaint.

A complaint filed under this section must describe with particularity the facts that support the proposed agency action.

## § 1201.139 Rights; answer to complaint.

(a) *Responsibilities of Clerk of the Board.* The Clerk of the Board shall furnish a copy of the applicable Board regulations to each administrative law judge named as a respondent in the complaint and shall inform each respondent of his or her rights under paragraph (b) of this section and the requirements regarding the timeliness and content of an answer to the agency's complaint under paragraphs (c) and (d), respectively, of this section.

(b) *Rights.* When an agency files a complaint proposing an action against an administrative law judge under 5 U.S.C. 7521 and this subpart, the administrative law judge has the right:

- (1) To file an answer, supported by affidavits and documentary evidence;
- (2) To be represented;
- (3) To a hearing on the record before an administrative law judge;
- (4) To a written decision, issued at the earliest practicable date, in which the administrative law judge states the reasons for his or her decision; and
- (5) To a copy of the administrative law judge's decision and subsequent final decision by the Board, if any.

(c) *Filing and default.* A respondent named in an agency complaint may file an answer with the Clerk of the Board within 35 days of the date of service of the complaint. If a respondent fails to answer, the failure may constitute waiver of the right to contest the allegations in the complaint. Unanswered allegations may be considered admitted and may form the basis of the administrative law judge's decision.